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What's going on at the U.S. border & what is Title 42?

You've probably heard there's a "crisis" at the border but may be confused about what is actually happening, and what the Biden Administration has done so far through its executive orders on border and asylum issues. We're here to tell you the facts and how you can get involved. What this is really about is our collective humanity and how we welcome children, families and people at our doorstep. We have an opportunity to undo the harms of the past administration and treat those arriving with kindness and dignity, instead of cruelty. It's up to us to hold our administration accountable.

What has the Biden Administration announced so far that impacts the border and asylum?

Before he took office, Biden made a [commitment](#) to restore access to asylum at our border, reunite separated families, and to have a fair and just immigration system. This was important because the Trump Administration eviscerated our asylum system and implemented cruel anti-immigrant and anti-refugee policies during the past four years that harshly affected members of our communities and those seeking protections at our border. But the truth is that our immigration system wasn't perfect before the Trump Administration, either, and there's a lot of work to do to make it fairer, humane and just.

President Biden's initial announcements are important first steps on the path to follow through with his campaign promises. Within his first week in office, President Biden issued executive orders that established a [taskforce to reunite](#) separated families, stopped [new border wall construction](#), and instructed a review of additional anti-asylum regulations. He also proposed an [immigration bill](#) that included a pathway to citizenship for Dreamers, Temporary Protected Status (TPS) beneficiaries, and farmworkers. President Biden instructed the Department of Homeland Security (DHS) to [review](#) its enforcement priorities to make them less severe than those the Trump Administration used, which in effect targeted all undocumented immigrants. And the Biden Administration [rescinded](#) the Asylum Cooperative Agreements (ACAs) with Central American governments that [denied](#) asylum seekers protections at our border and returned them to countries they weren't even from, forcing them to request asylum in countries in which they would still be in danger.

Then on February 11, President Biden went a step beyond his initial announcement of suspending the Remain in Mexico/ MPP policy which forced asylum seekers to wait in Mexico, leaving tens of thousands of people waiting in makeshift refugee camps, and [began processing](#) the first asylum seekers who had been waiting often for months along Mexico's northern border. Since then, over [1,000 asylum seekers](#) have already been processed into the United States

along different parts of the border. After waiting for months and for some even over a year in dangerous conditions in northern Mexico, they will now be able to pursue their asylum claims on U.S. soil, safely in the company of their friends and family. This was an important initial step towards meeting President Biden's promise to restore access to asylum. But the reality is that even if this is a good start, there is A LOT left to do to fully restore access to asylum, starting with one policy that hasn't been rescinded—the Title 42 CDC border order.

What is the Title 42 CDC border order?

Under the Trump Administration, on March 20, 2020, the Centers for Disease Control and Prevention (CDC) issued a [border order](#) known as “Title 42,” to cruelly expel or “send back” thousands of asylum seekers to Mexico or their home countries, framed as a response to the COVID-19 pandemic. This policy has been in place since then and under it, asylum seekers are not given a chance to apply for asylum or make their claim heard and instead are immediately returned over the bridge back to Mexico by Border Patrol agents or placed on a plane out of the United States. Many are not even told where they are [going](#). In the past year alone, over [530,000](#) migrants have been expelled under Title 42. Former Vice President Pence [pressured](#) CDC officials to implement it under the guise of the pandemic.

Public health experts have [spoken out](#) saying that the policy has no public health justification. The policy uses an obscure provision of a 1944 law to [supersede](#) U.S. immigration and asylum law. It applies only to those crossing by land at our northern and southern borders and only to “non-citizens,” or arriving migrants and asylum seekers. It makes the argument that because of the dangers of holding migrants in “congregate settings” within Customs and Border Protection (CBP) facilities at the border, they should not be allowed to enter during the pandemic even though other people are allowed to enter the United States by air or even by land and immigrants can still be held in detention facilities within the United States. The CDC order also establishes the process to expel asylum seekers, violating people's right to seek protection at the U.S.-Mexico border under U.S. and international law. A leaked CBP [implementation memo](#) on the policy makes clear that the policy ultimately sought to expel migrants without any sort of processing. There have already been at least five legal challenges filed to Title 42 by NGOs, and in one of the cases the court actually [blocked](#) the Trump Administration from applying the policy to unaccompanied children in Nov. 2020. It is clear that the Trump Administration used the pandemic to close the border just to asylum seekers with Title 42 and unfortunately, President Biden has left the policy in place to date.

How is Title 42 related to what is happening at the border right now?

The reality is that there *is* an uptick in the arrivals of unaccompanied migrant children at the border, the [most since May 2019](#), but this didn't just happen overnight. In fact, the uptick actually [began](#) in April 2020 under the Trump Administration and shortly after it implemented Title 42. There's a few different reasons why this is happening. First, it's important to remember that as a result of the Trump Administration's anti-asylum policies, including Title 42, tens of thousands of people have been stuck on the border in camps in Mexico for the last few months and years waiting for a chance to make their claims heard. These policies have been the real

wall for people to seek protection and to be processed into the United States. The bottleneck has been years in the making, and tens of thousands of people are now waiting for change.

But unfortunately, even now under a new administration, there aren't many options to be processed into the United States at the border. All single adults and most families are expelled sometimes within just ninety minutes without any sort of processing back to Mexico, or to their home countries because the Title 42 border order is still in place. Black migrants are particularly affected by Title 42 because the [Mexican government has only agreed](#) to receive migrants from the northern countries of Central America. In the last few months, the United States has [increased the expulsions](#) of Black migrants to Haiti and African countries.

The Biden Administration has only made an exception to the Title 42 border order to allow the processing of unaccompanied children. And so families with children who are arriving at the border are growing increasingly desperate waiting in situations of danger and are making the very difficult [decision](#) to send their children alone because they know that if they went together as a family they'd be expelled, while their children alone will be processed and may have the chance to be reunited with their family members within the United States.

Second, the conditions of poverty, [food insecurity](#), corruption, targeted violence, and state repression have only worsened in the northern countries of Central America. And problems have intensified even more due to back-to-back [hurricanes](#) last year and the ongoing pandemic, leaving people with no hope but to migrate for a better future. In many cases conditions are so dire that people just can't wait because they're afraid for their lives. And these conditions aren't just limited to people in Central America, but also to countries like Haiti, which is experiencing major [political unrest and turmoil](#). Until these conditions are resolved, migrants will keep fleeing their homes and coming.

What happens when asylum seekers and migrants are returned from our border?

Under Title 42, asylum seekers can be returned to dangerous parts of [Mexico](#). They're left to fend for themselves and to find food, services and shelter on their own. Many times they end up living in tent cities because shelters are overwhelmed and not operating at full capacity due to pandemic restrictions. Many are exposed to human rights abuses. There have been over [1,544 publicly reported](#) cases of rape, torture, and kidnapping among asylum seekers waiting in Mexico just since the Remain in Mexico/ MPP policy began under the Trump Administration.

If they're not sent back to Mexico, families and single adults are placed on a plane shortly after being apprehended. There is no immigration proceeding or screening for protection. Sometimes [flights](#) to certain countries include migrants who have been deported from detention centers within the United States *and* migrants who have been expelled from the border on the same plane. Some flights make multiple stops in the United States to pick up migrants before departing. Many countries that migrants are returned to are still struggling to get the pandemic under control and do not have the infrastructure to welcome these returned migrants safely. In Guatemala, Honduras, and El Salvador, there is little support for returned migrants beyond the initial reception centers and the heroic but limited effort of some community and faith organizations that seek to provide migrants with alternatives once they're in their communities.

But in many cases, migrants will choose to [migrate again](#) because there isn't any support for them, their family members may still be in the United States, their economic situation is as or more desperate than before, and the same dangers they fled from continue to threaten their lives.

Are deportations still happening?

Deportations are the process by which migrants are flown back to their home countries from Immigration and Customs Enforcement (ICE) detention centers within the United States. Migrants receive final orders to be deported by an immigration judge once that judge deems their case ineligible for protection within the United States. A "deportation" implies that there was an immigration proceeding that someone was subject to but in which the judge denied them their petition and sent them back to their home country. President Biden tried to [halt deportations](#) temporarily this past January but a Texas judge [blocked](#) this order so deportations are continuing until a new court decision is made. In many cases while in detention facilities, migrants are exposed to human rights abuses, unsanitary conditions, and COVID. During the pandemic, many ICE detention facilities [have failed](#) to provide detainees with minimal PPE and protection from the virus. Migrants leave exposed to the virus and are then sent back to countries without getting properly tested before being returned.

The bottom line is that through [expulsions and deportations](#), the United States is returning migrants and asylum seekers to situations of instability and danger amidst a pandemic, and this must be stopped.

What should the U.S. response be?

The Biden Administration has an opportunity to not only undo the harms of the Trump Administration but to start the hard work of reforming our immigration system towards one that is truly humane and just. The United States is capable of welcoming those arriving at our doorstep with dignity and compassion.

For access to asylum to be fully restored at the border, the Biden Administration must rescind the Title 42 border order. It should also expand the winddown of the Remain in Mexico/ MPP policy and process all of the asylum seekers denied protection under that policy and other policies during the Trump Administration, including those who are still on illegal waitlists.

The Biden Administration should then resume processing people, including families, adults, and children at border ports of entry, screening them for protection in a way that upholds U.S. and international law. Not everybody may end up making a claim for asylum but they still deserve a fair, orderly, and humane process. A [humanitarian and welcoming reception system](#) at our border is possible. Organizations along the border have been receiving migrants for years and are ready to help. And it is possible to protect the right to public health *and* the right to seek asylum. Public health experts have issued [recommendations](#) that would make the processing of asylum seekers safe and orderly even during the pandemic. Unaccompanied children and families arriving at our border should be processed humanely and swiftly to ensure that they spend the least time possible in any sort of facilities and are reunited with their family members

quickly. The administration should also end the use of costly, inhumane and unnecessary immigration detention and use community-based alternatives to detention instead.

The administration should also expand access to protection south of the border, creating opportunities for migrants to seek safety closer to home, and send a strong message that it stands by the civil society organizations and communities organizing for change, and not corrupt, abusive governments, particularly in the northern countries of Central America.

What can you do?

- Sign and share our [petition](#) calling on the administration to stop expulsions immediately!
- Call on the administration to rescind the Title 42 border order and educate our members of Congress on why Title 42 border order is so harmful and must be terminated.
- Call on the administration and members of Congress to have a humanitarian approach at our border that welcomes everyone with dignity.
- Support the organizations along the border receiving migrants.
- Share this explainer with your friends and family to spread awareness!

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